IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 541 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VARSHABEN V SONI

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 541 of 2001

MR JA ADESHRA for Petitioner No. 1

MR KODEKAR, APP for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE R.P.DHOLAKIA

Date of decision: 11/09/2003

ORAL JUDGEMENT

#. The present petitioner, who was one of the Directors

of the Company known as "M/s Pan India Forest & Land Development Limited", was joined as Director from the inception of the Company along with other Directors against whom the complaint has been filed by the complainant Nanjibhai Jerambhai Hirpara of Chalala, District Amreli, directly into the Police Station, which has been registered as Chalala Police Station I CR No.48 of 2000 on 20/7/2000 under Sections 406, 420 and 114 of IPC. Pursuant to the said complaint, the police started the investigation and during the course of investigation, statements of various witnesses have been recorded. Meanwhile, the present petitioner, i.e. Varshaben V. Soni has filed the present petition under Section 482 of the Code of Criminal Procedure mainly on the ground that she no more remains as Director from 1.7.1995 and the complaint in question, which has been filed by the complainant, is for the transaction of 15.10.1995 onwards. She has also produced the xerox copy of the search reports issued by K.Solanki & Co. dated 11.10.2000 wherein it has been mentioned that the present petitioner Varshaben V.Soni has resigned as Director from 31.7.1995. Even the xerox copy of Form No.32 has been produced by the petitioner at Annexure-B page 9, which also supports the say of the present petitioner.

#. It is argued by the learned counsel for the petitioner that it is settled law that when a person is not the Director when the offence has taken place and no allegation has been made against the petitioner, the complaint qua the present petitioner is required to be quashed.

#. Considering the over all aspects of the matter, the complaint in question qua the present petitioner is quashed. Rule is made absolute to the aforesaid extent. The Investigating Agency is directed to proceed further with the investigation qua other accused. Office is directed to give copy of this order to the learned APP for the purpose of sending the same to the Investigating Officer.

(R.P.Dholakia,J)
(pathan)